

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
(KANSAS CITY DOCKET)

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEMETRIUS R. HARGROVE,

Defendant.

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Case No. 03-20192-01-CM

SUPERSEDING INDICTMENT

The Grand Jury charges that:

COUNT 1

1. On or about the 19th day of February, 1998, in the District of Kansas,

DEMETRIUS R. HARGROVE

in the course of a violation of Title 18, United States Code, Section 924(c), that is, carrying and using and possessing in furtherance of and discharging a firearm during and in relation to a drug trafficking crime, that is, possession of a controlled substance with the intent to distribute, a violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, for which he may be prosecuted in a court of the United States, did unlawfully, willfully, deliberately, maliciously, and with premeditation, murder Elmer Berg with malice aforethought, through the use of a firearm, in violation of Title 18, United States Code, Sections 924(j)(1) and 1111.

COUNT 2

2. On or about the 19th day of February, 1998, in the District of Kansas,

DEMETRIUS R. HARGROVE

in the course of a violation of Title 18, United States Code, Section 924(c), that is, carrying and using and possessing in furtherance of and discharging a firearm during and in relation to a drug trafficking crime, that is, possession of a controlled substance with the intent to distribute, a violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, for which he may be prosecuted in a court of the United States, did unlawfully, willfully, deliberately, maliciously, and with premeditation, murder Misty Castor with malice aforethought, through the use of a firearm, in violation of Title 18, United States Code, Sections 924(j)(1) and 1111.

COUNT 3

3. On or about the 25th day of July, 1998, in the District of Kansas,

DEMETRIUS R. HARGROVE

did unlawfully, willfully, deliberately, maliciously, and with premeditation and malice aforethought, murder another person, that is, Tyrone Richards, with the intent to prevent Tyrone Richards from attending and testifying at an official proceeding, that is, the jury trial of United States v. Christopher Trotter, Case. No. 98-CR-20033-01, in the United States District Court for the District of Kansas, in violation of Title 18, United States Code, Sections 1512(a)(1)(A) and 1111, and as provided for in Title 18, United States Code, Section

1512(a)(3)(A).

COUNT 4

4. That from on or about the 31st day of December, 1998, through and including the 3rd day of January, 1999, in the District of Kansas, and elsewhere,

DEMETRIUS R. HARGROVE

did unlawfully attempt to kill and to murder and to use physical force against another person, that is, Shedrick Kimbrel, with the intent to prevent Shedrick Kimbrel from attending and testifying at an official proceeding, that is, the trial of United States v. Demetrius R. Hargrove, Case No. 98-CR-20033-02, in the United States District Court for the District of Kansas, in violation of Title 18, United States Code, Sections 1512(a)(1)(A) and 2, and as provided for in Title 18, United States Code, Section 1512 (a)(3)(B).

COUNT 5

5. That from on or about the 31st day of December, 1998, through and including the 3rd day of January, 1999, in the District of Kansas,

DEMETRIUS R. HARGROVE

did unlawfully conspire, combine, confederate, and agree with others both known and unknown to the Grand Jury to kill and attempt to kill another person, that is, Shedrick Kimbrel, with the intent to prevent Shedrick Kimbrel from attending and testifying at an official proceeding, that is, the jury trial of United States v. Demetrius R. Hargrove, Case No. 98-CR-20033-02, in the United States District Court for the District of Kansas, a

violation of Title 18, United States Code, Section 1512(a)(1)(A), in violation of Title 18, United States Code, Section 371.

OVERT ACTS

6. The Grand Jury further charges that in furtherance of said conspiracy, and to effect the objects thereof, the following overt acts were committed in the District of Kansas, and elsewhere:

a. On or about December 31, 1998, in the District of Kansas, the defendant **DEMETRIUS R. HARGROVE** made telephone calls from the Corrections Corporation of America (“CCA”), a detention facility located in Leavenworth, Kansas, to other conspirators both known and unknown to the Grand Jury, for the purpose of arranging the murder of Shedrick Kimbrel, a witness as described in this count and in this indictment.

b. On or about January 1, 1999, in the District of Kansas, the defendant **DEMETRIUS R. HARGROVE** made telephone calls from the CCA detention facility located in Leavenworth, Kansas, to other conspirators both known and unknown to the Grand Jury for the purpose of arranging the murder of Shedrick Kimbrel, a witness as described in this count and in this indictment.

c. On or about January 1, 1999, in the District of Kansas, coconspirators of the defendant **DEMETRIUS R. HARGROVE**, both known and unknown to the Grand Jury, drove to the residence of Shedrick Kimbrel, a witness as described in this count and in this indictment, located in Kansas City in the District of Kansas, and attempted to kill him by use of a firearm, but the firearm did not function.

NOTICE OF SPECIAL FINDINGS

7. The allegations of Counts 1, 2, and 3 of this superseding indictment are hereby realleged as though set forth herein and are incorporated by reference.

8. Pursuant to the provisions of Title 18, United States Code, Sections 3591 and 3592(c), the **Grand Jury Further Finds** that the following factors exist:

a. The defendant **DEMETRIUS R. HARGROVE** was eighteen (18) years of age or older at the time he committed the offenses charged in Counts 1, 2, and 3 of this superseding indictment. 18 U.S.C. § 3591.

b. With respect to the offense charged in Count 1 of this superseding indictment, the defendant **DEMETRIUS R. HARGROVE** did:

(1) intentionally kill the victim, Elmer Berg, 18 U.S.C. § 3591(a)(2)(A);

(2) intentionally inflict serious bodily injury that resulted in the death of Elmer Berg, 18 U.S.C. § 3591(a)(2)(B);

(3) intentionally participate in one or more acts, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than a participant in the offense, and Elmer Berg died as a direct result of such act or acts, 18 U.S.C. § 3591(a)(2)(C);

(4) intentionally and specifically engage in one or more acts of violence, knowing that the act or acts created a grave risk of death to a person, other than one of the participants in the offense, such that participation in such act or acts constituted a reckless disregard for human life, and Elmer Berg died

as a direct result of such act or acts, 18 U.S.C. § 3591(a)(2)(D);

(5) commit the offense after substantial planning and premeditation to cause the death of a person, to wit: Elmer Berg, 18 U.S.C. § 3592(c)(9);

(6) intentionally kill more than one person, that is, Elmer Berg and Misty Castor, in a single criminal episode, 18 U.S.C. § 3592(c)(16);

(7) commit the offense after previously having been convicted of a state offense punishable by a term of imprisonment of more than one year, involving the use or attempted use of a firearm against another person (18 U.S.C. § 3592(c)(2)), to wit: attempted robbery with a firearm or deadly weapon, in Indian River County, Florida Circuit Court, Case No. 93-134-CF-A, on April 28, 1993; and

c. With respect to the offense charged in Count 2 of this superseding indictment, the defendant DEMETRIUS R. HARGROVE did:

(1) intentionally kill the victim, Misty Castor, 18 U.S.C. § 3591(a)(2)(A);

(2) intentionally inflict serious bodily injury that resulted in the death of Misty Castor, 18 U.S.C. § 3591(a)(2)(B);

(3) intentionally participate in one or more acts, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than a participant in the offense, and Misty Castor died as a direct result of such act or acts, 18 U.S.C. § 3591(a)(2)(C);

(4) intentionally and specifically engage in one or more acts of violence, knowing that the act or acts created a grave risk of death to a person, other than one of the participants in the offense, such that participation in such act

or acts constituted a reckless disregard for human life, and Misty Castor died as a direct result of such act or acts, 18 U.S.C. § 3591(a)(2)(D);

(5) intentionally kill more than one person, that is, Elmer Berg and Misty Castor, in a single criminal episode, 18 U.S.C. § 3592(c)(16);

(6) commit the offense after previously having been convicted of a state offense punishable by a term of imprisonment of more than one year, involving the use or attempted use of a firearm against another person (18 U.S.C. § 3592(c)(2)), to wit: attempted robbery with a firearm or deadly weapon, in Indian River County, Florida Circuit Court, Case No. 93-134-CF-A, on April 28, 1993; and

d. With respect to the offense charged in Count 3 of this superseding indictment, the defendant DEMETRIUS R. HARGROVE did:

(1) intentionally kill the victim, Tyrone Richards, 18 U.S.C. § 3591(a)(2)(A);

(2) intentionally inflict serious bodily injury that resulted in the death of Tyrone Richards, 18 U.S.C. § 3591(a)(2)(B);

(3) intentionally participate in one or more acts, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than a participant in the offense, and Tyrone Richards died as a direct result of such act or acts, 18 U.S.C. § 3591(a)(2)(C);

(4) intentionally and specifically engage in one or more acts of violence, knowing that the act or acts created a grave risk of death to a person, other than one of the participants in the offense, such that participation in such act

or acts constituted a reckless disregard for human life, and Tyrone Richards died as a direct result of such act or acts, 18 U.S.C. § 3591(a)(2)(D);

(5) commit the offense in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to the victim, 18 U.S.C. § 3592(c)(6);

(6) commit the offense after substantial planning and premeditation to cause the death of a person, to wit: Tyrone Richards, 18 U.S.C. § 3592(c)(9);

(7) commit the offense after previously having been convicted of a state offense punishable by a term of imprisonment of more than one year, involving the use or attempted use of a firearm against another person (18 U.S.C. § 3592(c)(2)), to wit: attempted robbery with a firearm or deadly weapon, in Indian River County, Florida Circuit Court, Case No. 93-134-CF-A, on April 28, 1993.

A TRUE BILL.

FOREPERSON

DATED: _____

ERIC MELGREN
UNITED STATES ATTORNEY
DISTRICT OF KANSAS
500 State Avenue
Room 360
Kansas City, Kansas 66101
KS S.Ct. No. 12430

(It is requested that the trial of the above-captioned case be held in the City of Kansas City, Kansas.)

The Court acknowledges the return of this superseding indictment in open court.

UNITED STATES DISTRICT JUDGE
District of Kansas

PENALTIES:

Counts 1 & 2 - Death or by Imprisonment for any term of years or for Life;
Fine NMT \$250,00.00; S.R. NMT 5 years; Special Assessment \$100.00.
Count 3 - Death or by Imprisonment for Life; Fine NMT \$250,000.00; S.R.
NMT 5 years; Special Assessment \$100.00.
Count 4 - Imprisonment NMT 20 years; Fine NMT \$250,000.00; S.R. NMT
3 years; Special Assessment \$100.00.
Count 5 - Imprisonment NMT 5 years; Fine NMT \$250,000.00; S.R. NMT 3
years; Special Assessment \$100.00.